

pressive of his violent character and intemperate passions; that no commission had been issued, nor any proofs taken. She, therefore prayed leave to amend her answer in this particular.

18th August, 1825.—BLAND, *Chancellor*.—It appears that the defendant has thought proper to correct her defence as regards the character of her deceased husband. Giving his character in her answer, she has used the word *intemperate*, from which it may be inferred that he was either excessive in meat and drink, or that he was passionate and ungovernable. The word *intemperate*, according to the most approved authorities, conveys both of those meanings. The defendant now alleges, by her petition, that the latter was the sense in which she intended to use the word. Therefore, it is *Ordered*, that the defendant do, and she is hereby permitted to file a supplemental answer, correcting the mistake, as prayed; leaving to the parties the effect of what was originally sworn with the explanation of the supplemental answer. (a)

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After which, the plaintiff put in his general replication, commissions were issued, and testimony taken and returned.

2d October, 1826.—BLAND, *Chancellor*.—This case standing ready for hearing, the counsel on both sides were fully heard, and the proceedings read and considered. It very satisfactorily appears, from the proofs, that the contracts relied on by the plaintiff in his bill, were deliberately and fairly made and entered into in all respects whatever. And it also appears, that the plaintiff is now fully able to convey to the representatives of the late *Gilbert Murdock*, senior, a good and sufficient title to the property sold to him according to the terms of the contract between them.

With regard to the allegation of the defendant, that the plaintiff had previously brought another suit for the same cause, which suit was then depending, it will be sufficient to observe, that on advertent to the bill referred to, which was filed on the 15th of January, 1825, it appears upon the face of it, that it can only be considered as an injunction bill to stay waste; the prayer for a sale being utterly incompatible with its statement, must, necessarily, be regarded as mere surplusage. And, rejecting the prayer for a sale, it cannot, in any way whatever, be considered as a bill for a sale, or to foreclose a mortgage, which is the sole object of this suit.

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(a) *Curling v. Townshend*, 19 Ves. 630; *Livesey v. Wilson*, 1 Ves. & Bea. 149; *Strange v. Collins*, 2 Ves. & Bea. 163; *Edwards v. McLeary*, 2 Ves. & Bea. 256.